



Comptroller General
of the United States
Washington, D.C. 20548

143959

Decision

Matter of: Sach Sinha and Associates, Inc.--
Reconsideration

File: B-241056.4

Date: May 21, 1991

Sach Sinha for the protester.
Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

1. Request for reconsideration is denied where request contains no statement of facts or legal grounds warranting reversal but merely restates arguments made by the protester and previously considered by the General Accounting Office.
2. Protest against technical evaluation of protester's proposal was properly dismissed as untimely filed under Bid Protest Regulations because specific basis for protest was filed more than 10 working days after detailed debriefing. 4 C.F.R. § 21.2(a)(2) (1991). The protester had all the information it needed to include its specific arguments in its initial timely protest filed after the oral debriefing and the 10-day filing requirement is not extended to allow the protester to wait for written confirmation of the debriefing information.

DECISION

Sach Sinha and Associates, Inc. (SSA) requests that we reconsider our decision, Sach Sinha and Assoc., Inc., B-241056.3, Jan. 7, 1991, 70 Comp. Gen. ____, 91-1 CPD ¶ 15. In that decision we found proper the U.S. Army Armament, Munitions and Chemical Command award of a contract to Honeywell, Inc. under request for proposals (RFP) No. DAAA21-90-R-0016. We found that the award to the higher-rated, higher-cost offeror was proper since price and technical factors were of equal importance and the agency reasonably determined that the technical advantage associated with the awardee's proposal was worth the difference in cost. We also concluded that SSA's challenge to the technical evaluation of its proposal was untimely under 4 C.F.R. § 21.2(a)(1) (1991) of our Bid Protest Regulations. SSA disagrees with our

decision that the award to the higher-cost, higher-rated firm was proper and also argues that it timely protested the specific deficiencies in its proposal identified by the agency at the oral briefing. We deny the request for reconsideration.

Under our Bid Protest Regulations, to obtain reconsideration the requesting party must show that our prior decision contains either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a). SSA's repetition of arguments made during our consideration of the original protest and mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD 274. SSA's reiteration of its previously-raised arguments concerning the award to a higher-cost firm do not provide a basis for reconsideration.

SSA also argues that we should not have found untimely its challenge to the specific deficiencies in its proposal identified by the agency at an oral debriefing. SSA primarily argues that because the debriefing was oral and the agency's written evaluation was available only with the agency report submitted in response to the protest, it timely submitted detailed comments within 10 days of its receipt of the agency report.

Award was made to Honeywell on August 31, 1990. On October 1, SSA was given a debriefing by the agency. During the debriefing, the Army discussed in detail the scoring of SSA's proposal and very specifically explained to SSA exactly why SSA's best and final offer (BAFO) was determined to be technically weak in certain areas. SSA, in its initial protest, filed with our Office on October 3, argued in general that the evaluation of its BAFO was flawed and that it was prepared to offer a point-by-point rebuttal to the final evaluation of its proposal.


In its comments on the agency report filed with our Office on November 20, SSA discussed in detail areas of its proposal that, according to information it received at the debriefing, the Army found deficient in some respect. SSA disputed the Army's conclusion regarding some of those deficiencies and contended that others could have been resolved after contract award.

Since SSA was advised of the specific deficiencies in its proposal at the October 1 debriefing and knew the specific basis for protest at that time, we found untimely SSA's specific objections to the Army's evaluation raised more than 10 working days after the debriefing. See 4 C.F.R. § 21.2(a)(1).

We reject SSA's argument that because the reasons for not awarding to SSA were placed in writing for the first time in the agency report, it could delay presenting its specific arguments until its comments. The record shows that SSA was made aware of the specific deficiencies in its proposal during the debriefing and does not now argue that it was not fully aware of the perceived deficiencies from that debriefing. When an oral debriefing provides the basis for the protest, a protester may not delay filing its protest until it receives written confirmation of the information obtained from the debriefing. FLS, Inc., B-212066, July 21, 1983, 83-2 CPD ¶ 109. As SSA waited until after receipt of the agency report which merely provided written confirmation of the basis for protest, this aspect of SSA's protest was untimely.

While the protester views our dismissal of this protest ground as "arbitrary" and based on a technicality, the failure of a protester to make all arguments or submit all relevant information timely undermines the goals of our bid protest forum--to produce fair and equitable decisions based on consideration of both parties' arguments on a fully developed record. Here, the protester's delay in providing its detailed protest did not permit such consideration since the agency was effectively deprived of the opportunity to respond to the protester's detailed concerns regarding the deficiencies identified.

The request for reconsideration is denied.


James F. Hinchman
General Counsel